



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Intent to Conduct Scoping and to Prepare a Draft Environmental Impact

Statement for the Proposed Chumash Heritage National Marine Sanctuary

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of intent to prepare a draft environmental impact statement and hold public scoping meetings; request for comments.

SUMMARY: In accordance with the National Marine Sanctuaries Act (NMSA), the National Oceanic and Atmospheric Administration (NOAA) is initiating a process to consider designating a portion of waters along and offshore of the central coast of California as a national marine sanctuary. NOAA is initiating this process based on the area's qualities and boundaries as described in the community-based nomination¹ submitted on July 17, 2015, excluding any geographical overlap of the boundaries proposed for the Morro Bay 399 Area as described in the July 29, 2021 Federal Register notice.² The designation process will be conducted concurrently with a public process under the National Environmental Policy Act (NEPA) to prepare an environmental impact statement. NOAA is initiating this public scoping process to invite comments on the scope and significance of issues to be addressed in the environmental impact statement that are related to designating this area as a national marine sanctuary. The results of this scoping process will assist NOAA in moving forward with the designation

¹https://nmsnominate.blob.core.windows.net/nominate-prod/media/documents/nomination_chumash_heritage_071715.pdf

²<https://www.federalregister.gov/documents/2021/07/29/2021-16134/commercial-leasing-for-wind-power-development-on-the-outer-continental-shelf-ocs-offshore-morro-bay>

process, including preparation and release of draft designation documents, and in formulating alternatives for the draft environmental impact statement, including developing national marine sanctuary boundaries, regulations, and a management plan. This scoping process will also inform the initiation of any consultations with federal, state, or local agencies, tribes, and other interested parties, as appropriate.

DATES: Comments are due by January 10, 2022. NOAA will host virtual public scoping meetings at the following dates and times:

- Wednesday, December 8, 2021, 6 p.m.-9 p.m. Pacific Time
- Monday, December 13, 2021, 1 p.m.-4 p.m. Pacific Time
- Thursday, January 6, 2022, 4 p.m.-7 p.m. Pacific Time

NOAA may end a meeting before the time noted above if all those participating have completed their oral comments.

ADDRESSES: You may submit comments on this document by any of the following methods:

- Federal eRulemaking Portal: Go to <https://www.regulations.gov> and enter “NOAA-NOS-2021-0080” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.
- Mail: Send any hard copy public comments by mail to: Paul Michel, NOAA Sanctuaries West Coast Regional Office, 99 Pacific Street, Building 100F, Monterey, CA 93940.
- Public Scoping Meetings: Provide oral comments during virtual public scoping meetings, as described under DATES. Webinar registration details and additional information about how to participate in these public scoping meetings is available at www.sanctuaries.noaa.gov/chumash-heritage.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All

comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter will be publicly accessible. NOAA will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Paul Michel, (831) 241-4217, paul.michel@noaa.gov, West Coast Region Policy Coordinator.

SUPPLEMENTARY INFORMATION: *Background on Sanctuary Nomination*

The National Marine Sanctuaries Act (NMSA), 16 U.S.C. 1431 et seq., authorizes the Secretary of Commerce (Secretary) to designate and protect as national marine sanctuaries areas of the marine environment that are of special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or aesthetic qualities. Day-to-day management of national marine sanctuaries has been delegated by the Secretary to the NOAA Office of National Marine Sanctuaries (ONMS). The primary objective of the NMSA is to protect the resources of the National Marine Sanctuary System.

In July 2015, Fred Collins, on behalf of the Northern Chumash Tribal Council, submitted a nomination to NOAA through the Sanctuary Nomination Process (79 FR 33851), asking NOAA to consider designating an area on the central California coast as a national marine sanctuary. The nomination has been endorsed by a diverse coalition of organizations and individuals at tribal, local, state, regional, and national levels including elected officials, businesses, recreational users, conservation groups, fishing associations, tourism companies, museums, historical societies, and education groups. The submitted nomination package is available at:

<https://nominate.noaa.gov/nominations/>. The nomination asks NOAA to protect this

nationally significant area for its culturally and biologically important resources. The nomination also identifies opportunities for NOAA to expand upon existing local and state efforts to study, interpret, and manage the area's unique cultural and biological resources.

NOAA added the area to the inventory of nominations that are eligible for designation in October 2015 and extended it on the inventory in September 2020 at the five-year interval after a review of the nomination (85 FR 61935). NOAA is now initiating the process to potentially designate the nominated area, excluding any geographical overlap of the boundaries proposed for the Morro Bay 399 Area in the July 29, 2021 Federal Register Notice of Commercial Leasing for Wind Power Development on the Outer Continental Shelf (OCS) Offshore Morro Bay, California, East and West Extensions – Call for Information and Nominations (86 FR 40869), as a national marine sanctuary. The proposed designation is consistent with the Biden-Harris Administration's complementary goals to tackle the climate crisis per Executive Order 14008,³ including by conserving and restoring ocean and coastal habitats, supporting tribally and locally led stewardship, and advancing offshore wind and other clean energy projects.

The proposed national marine sanctuary would run along the mean high tide line from approximately Cambria at the terminal boundary of Monterey Bay National Marine Sanctuary (MBNMS), south along the San Luis Obispo County coast, excluding Morro Bay harbor and Port San Luis, and then further south to include the coast of Santa Barbara County to approximately Gaviota Creek, then offshore in a southwest direction along the western end of Channel Islands National Marine Sanctuary (CINMS), southward to include Rodriguez Seamount and shifting to the northwest to include the Santa Lucia Bank, to reconnect with the boundary for MBNMS offshore Cambria, and

³<https://www.federalregister.gov/documents/2021/02/01/2021-02177/tackling-the-climate-crisis-at-home-and-abroad>

following that boundary eastward to the point of origin at the shoreline. As stated above, the proposed sanctuary designation excludes the area that geographically overlaps the proposed Morro Bay 399 Area. NOAA estimates the area encompassed in the proposed designation is approximately 7,000 square miles. A map of the proposed area can be found at <https://sanctuaries.noaa.gov/chumash-heritage>.

The area contains unique and diverse ecosystems essential to the heritage of the Chumash, one of the few ocean-going bands among the First Peoples of the Pacific Coast. The marine environment provides a special sense of place to coastal communities and visitors because of its significant historic, archaeological, cultural, aesthetic and biological resources. The area has special ecological qualities as well, shaped by significant offshore geologic features (e.g. Rodriguez Seamount, Santa Lucia Bank and Arguello Canyon). Seasonal upwelling serves as the engine of the area's high biological productivity, supporting dense aggregations of marine life. The presence of a biogeographic transition zone, where temperate waters from the north meet the subtropics, creates an area of nationally significant biodiversity in sea birds, marine mammals, invertebrates, and fishes. The area is also known for its extensive kelp forests, seagrass beds, and wetlands that serve as nurseries for numerous commercial fish species and as important habitat for many threatened and endangered species such as humpback whales, blue whales, the southern sea otter, black abalone, snowy plovers and leatherback sea turtles.

The area being considered for sanctuary designation also contains more than 200 known shipwrecks. The area off Point Conception is a significant feature in California's long maritime history, with vessels regularly traversing the coast and, on occasion, sinking in this region. This collection of shipwrecks and overall maritime landscape are nationally significant because of the representativeness of the shipwrecks, their location on one of the nation's most historically important transportation corridors,

and the potential for the discovery of other shipwrecks and submerged pre-contact cultural sites.

Proponents of the national marine sanctuary have also highlighted the maritime history and cultural heritage of the Chumash Tribal nation with the sanctuary proposal. Some of the earliest documented human habitation of North America is in this region and various bands of Chumash and other indigenous Tribes have deep cultural connections to this area of central California. While much of the coast of San Luis Obispo and Santa Barbara counties has been surveyed for Native American artifacts and settlements, the continental shelf may well hold yet undiscovered paleoshorelines and archaeological resources worthy of study and conservation.

Coastal communities are spread along the coastline of San Luis Obispo County. There are two primary entry points for vessels – Morro Bay and Port San Luis. Further south in Santa Barbara County, the coast is remote with more limited access, such as in and around Vandenberg Space Force Base or Hollister Ranch. Current human uses include commercial and recreational fishing, kayaking, surfing, diving, wildlife watching, research and general recreation such as beach walking or boating.

I. *Purpose and Need for Sanctuary Designation*

The purpose and need for the designation is to fulfill the purposes and policies outlined in Section 301(b) of the NMSA, 16 U.S.C. 1431(b), including to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance, provide authority for comprehensive and coordinated conservation and management of these marine areas, and to protect the resources of these areas. In particular, the proposed designation would:

- Develop coordinated and collaborative marine science, education and outreach, cultural heritage programs to assist in managing the area's nationally significant resources;
- Highlight the many diverse human activities, cultural connections and maritime heritage of the area, from the various First Nations to existing activities in the area;
- Respond to community interest in conserving the natural environments, wildlife and cultural resources of this area; and
- Provide additional conservation and comprehensive ecosystem-based management to address threats to the nationally significant resources of the proposed sanctuary.

II. *Preliminary Description of Proposed Action and Alternatives*

NOAA's proposed action is to consider designating Chumash Heritage National Marine Sanctuary, as described in , Background on Sanctuary Nomination, via the sanctuary designation process detailed in section 304 of the NMSA (16 U.S.C. 1434). As part of the sanctuary designation process, NOAA will develop draft designation documents including a draft sanctuary management plan, proposed sanctuary regulations, and proposed terms of designation. Each national marine sanctuary has management programs developed with public input and crafted to meet the specific issues and resources found in that sanctuary. The NEPA process for sanctuary designation will include preparation of a draft environmental impact statement (DEIS) to consider alternatives and describe potential effects of the sanctuary designation on the human environment. The DEIS will evaluate a reasonable range of action alternatives that could include different options for sanctuary regulations, potential boundaries, and management plan goals. The DEIS will also consider a No Action Alternative, wherein NOAA would not designate the proposed sanctuary. The results of this scoping process will assist

NOAA in formulating alternatives for the DEIS, including options for sanctuary boundaries, regulations, and a management plan. Reasonable alternatives that are identified during the scoping period will be evaluated in the DEIS.

III. *Summary of Expected Impacts of Sanctuary Designation*

The DEIS will identify and describe the potential effects of the Proposed Action, and reasonable alternatives, on the human environment. Potential impacts may include, but are not limited to, impacts on the area's: natural marine resources, including habitats, plants, birds, sea turtles, marine mammals, and special status species; maritime, cultural and historic resources, including Traditional Cultural Properties and archaeological sites; human uses and socioeconomics of the area, such as research, recreation, education, energy development, cultural practices, fishing. Based on a preliminary evaluation of the resources listed above, NOAA expects potential impacts of enhanced protection of the area's natural, cultural and historic resources; improved planning and coordination of research, monitoring, and management actions; reducing harmful human activities and disturbance of special status species; restoration of native habitat and species populations; reducing threats and stressors to resources; and minimal disturbance during research or restoration actions.

IV. *Process for Sanctuary Designation and Environmental Review*

The designation process includes the following well-established and highly participatory stages:

1. Public Scoping Process — Information collection and characterization, including the consideration of public comments received during scoping;
2. Preparation of Draft Documents — Preparation and release of draft designation documents, including: a DEIS, prepared pursuant to NEPA, that identifies boundary and/or regulatory alternatives; a draft management plan; and a notice of

proposed rulemaking to define proposed sanctuary regulations. Draft documents would be used to initiate consultations with federal, state, or local agencies, tribes and other interested parties, as appropriate;

3. Public Comment — Through public meetings and in writing, allow for public review and comment on the DEIS, draft management plan, and notice of proposed rulemaking;
4. Preparation of Final Documents — Preparation and release of a final environmental impact statement (FEIS), final management plan, including a response to public comments, and a final rule and regulations.
5. The sanctuary designation and regulations would take effect after the end of a review period of forty-five days of a continuous session of Congress. During this same period, should the designation include state waters, the Governor of the state has the opportunity to concurrently review the terms of designation including boundaries within state waters.

Schedule for the Decision-Making Process

NOAA expects to make the DEIS and other draft documents available to the public by late 2022. NOAA expects to make the FEIS available to the public in Fall 2023. A Record of Decision and the final management plan and final rule will be completed no sooner than 30 days after the FEIS is made available to the public, in accordance with 40 CFR 1506.11.

NEPA Lead and Cooperating Agency Roles

NOAA is the lead federal agency for the NEPA process for the Proposed Action. NOAA may invite other federal, Tribal, or State and local government agencies to become cooperating agencies in the preparation of this EIS. NEPA regulations specify that a cooperating agency means any Federal agency (and a State, Tribal, or local agency with agreement of the lead agency) that has jurisdiction by law or special expertise with

respect to any environmental impact involved in a proposal (or a reasonable alternative) (40 CFR 1508.1(e)).

V. *Public Scoping Process*

With this notice, NOAA is initiating a public scoping process to gather input from individuals, organizations, federal agencies, and state, tribal, and local governments on the proposed designation of Chumash Heritage National Marine Sanctuary. NOAA intends to use this process to determine the scope and significant issues to be analyzed in depth in the DEIS, with consideration of the scoping factors and responsibilities provided in 40 C.F.R. 1501.9. NOAA specifically requests comments on the following topics, including the identification of potential alternatives, information, and analyses relevant to the proposed action:

- The spatial extent of the proposed sanctuary and boundary alternatives NOAA should consider, starting with the boundary as described in Section. Background on Sanctuary Nomination;
- the location, nature, and value of the resources, including natural and submerged cultural resources as well as the indigenous heritage of the area, that would be protected by a sanctuary;
- potential positive and negative impacts to those resources;
- the management plan and regulatory framework most appropriate to the resources in the area, including compatible and incompatible uses;
- the potential socioeconomic, cultural, and biological impacts of designation;
- the potential to highlight the indigenous history and culture of the area;
- the potential to support research and advance scientific understanding;
- information regarding historic properties in the area and the potential effects to those historic properties to support National Historic Preservation Act compliance under Section 106;

- opportunities to benefit the “blue economy” of the region, including promoting sustainable tourism and recreation;
- potential name for the new sanctuary;
- the potential to advance multiple, complementary priorities of the Federal administration, the Department of Commerce, and NOAA, including conserving and restoring ocean and coastal habitats, supporting Tribally and locally led stewardship, and advancing offshore wind and other clean energy projects;
- the potential location of an administrative office as well as coastal education facilities including possibly a visitor center; and
- other information relevant to the designation and management of a new sanctuary in this proposed area.

Comments may be submitted to NOAA by January 10, 2022 using the methods described in ADDRESSES. NOAA will host public scoping meetings during the public comment period, as described under DATES.

VI. *Anticipated Permits, Authorizations, and Consultations*

Federal, state, and local permits, authorizations, or consultations may be required for the Proposed Action, including consultation or review under the Endangered Species Act, 16 U.S.C. 1531 et seq., Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., National Historic Preservation Act, 54 U.S.C. 300101 et seq., and Executive Order 13175, consistency review under the Coastal Zone Management Act, 16 U.S.C. 1451 et seq., and possibly reviews under other laws and regulations determined to be applicable to the proposed action. To the fullest extent possible, NOAA will prepare the DEIS concurrently with and integrated with analyses required by other Federal environmental review requirements, and the DEIS will list all Federal permits, licenses, and other authorizations that must be obtained in implementing the proposed action. *See* 40 CFR 1502.24.

*Consultation Under Section 106 of the National Historic Preservation Act and
Executive Order 13175*

This notice confirms that NOAA will coordinate its responsibilities under section 106 of the National Historic Preservation Act during the sanctuary designation process and is soliciting public and stakeholder input to meet section 106 compliance requirements. The section 106 consultation process specifically applies to any agency undertaking that may affect historic properties. Pursuant to 36 CFR 800.16(1)(1), historic properties include: “any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. The term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization and that meet the National Register criteria.”

This notice also confirms that, with respect to the proposed sanctuary designation process, NOAA will fulfill its responsibilities under Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” and NOAA implementing policy and procedures. Executive Order 13175 requires federal agencies to establish procedures for meaningful consultation and coordination with Tribal officials in the development of federal policies that have Tribal implications. NOAA implements Executive Order 13175 through the NOAA Administrative Order 218-8 (Policy on Government-to-Government Consultation with Federally Recognized Indian Tribes and Alaska Native Corporations), and the NOAA Tribal Consultation Handbook. Under these policies and procedures, NOAA offers affected federally recognized Tribes government-to-government consultation at the earliest practicable time it can reasonably anticipate that a proposed policy or initiative may have Tribal implications.

Authority: 16 U.S.C. 1431 et seq.; 42 U.S.C. 4321 et seq.; 40 CFR 1500-1508 (NEPA Implementing Regulations); Companion Manual for NOAA Administrative Order 216-6A.

John Armor,

Director, Office of National Marine Sanctuaries,

National Ocean Service,

National Oceanic and Atmospheric Administration.

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